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January 8, 2021

**VIA CM/ECF**

The Honorable Richard G. Andrews  
J. Caleb Boggs Federal Building  
844 N. King Street  
Unit 9, Room 6325  
Wilmington, DE 19801-3555

**Re: *In re Sitagliptin Phosphate ('708 & '921) Patent Litigation*, C.A. Nos. 19-md-2902-RGA, 19-311-RGA, 19-312-RGA, 19-313-RGA, 19-314-RGA, 19-319-RGA, 19-347-RGA, 19-1489-RGA, 20-749-RGA, 20-776-RGA, 20-815-RGA, 20-847-RGA, 20-949-RGA, 20-1099-RGA, & 20-1496-RGA**

Dear Judge Andrews:

We write on behalf of all parties in the above-referenced matters to provide Your Honor with a status update regarding the need for infringement trials.

At present, an infringement trial with respect to U.S. Patent No. 7,326,708 will be necessary for the following Defendants: Ajanta (C.A. No. 20-1496), Apotex (C.A. Nos. 19-313, 20-749), Aurobindo (C.A. Nos. 20-949, 20-1099), Dr. Reddy's (C.A. No. 20-847), Lupin (C.A. Nos. 19-347, 20-776), and Zydus (C.A. No. 19-314). The parties jointly request that the Court schedule 1.5-day infringement trials for each of those parties.

With respect to Defendant Sun, the parties presently believe that an infringement trial will be necessary with respect to both the '708 patent and U.S. Patent No. 8,414,921, and the parties jointly request that the Court schedule a 2-day infringement trial in that matter (C.A. No. 19-319-RGA).

The parties request that, to the extent possible, infringement trials with the above Defendants be scheduled in late 2021, soon after the 3-day trial on validity issues, set to begin on October 4. To increase efficiency, Merck would further request that those infringement trials be scheduled back-to-back, where possible.

With respect to Defendant Anchen, the parties anticipate that an infringement trial with respect to the '708 patent will be necessary after the conclusion of the partial stay in that matter, and will provide further updates on the status of that case as set forth in the parties' stipulation to stay. D.I. 133, C.A. No. 19-311-RGA.

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With respect to Defendant Sandoz, the parties do not believe that an infringement trial will be necessary. *See* D.I. 131, C.A. No. 19-312-RGA.

With respect to Defendant Mylan (C.A. 19-1489), as the Court may recall, trial with Mylan will occur in the Northern District of West Virginia. That three-day trial is conditionally set to begin on December 13, 2021. As such, Plaintiffs and Mylan propose adding a date of Friday, July 23, 2021 for a telephonic status conference with the Court to discuss the matter, including transfer back to the Northern District of West Virginia for trial.

Respectfully,

*/s/ Daniel M. Silver*

Daniel M. Silver (#4758)

cc: All Counsel of Record (via CM/ECF and E-Mail)